

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

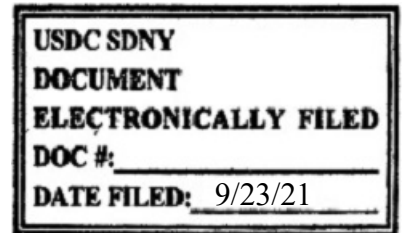
RSS CD2016-CD1 - NY R5S, LLC,

Plaintiff,

-against-

R&F 55TH STREET COMMERCIAL OWNER
LLC, et al.,

Defendants.



21-CV-4877 (GHW) (BCM)

ORDER

BARBARA MOSES, United States Magistrate Judge.

Now pending before the Court in this commercial foreclosure action are: (1) plaintiff's motion for the appointment of a receiver (Dkt. No. 21); and (2) defendants' motion to dismiss the complaint (Dkt. No. 33) on the ground that it was filed in violation of the COVID-19 Emergency Protect Our Small Businesses Act of 2021 (EPOSBA), effective March 9, 2021, and a related order of the Chief Administrative Judge of the state court system. The motions are fully briefed and scheduled for argument on October 7, 2021. (Dkt. No. 46.)

On September 17, 2021, defendants filed a letter application (Dkt. No. 47) in which they (1) request leave to withdraw their pending motion to dismiss in light of *Chrysafis v. Marks*, No. 218A, 2021 WL 3560766 (U.S. Aug. 12, 2021), and replace it with a new motion based upon amendments to EPOSBA enacted, in response to *Chrysafis*, on September 2, 2021; (2) request, in the alternative, that this action be stayed until January 15, 2022, "so that the Court has all of the proper law before it"; and (3) advise the Court that settlement discussions are "significantly advanced," such that further motion practice may be unnecessary.

Plaintiff's responding letter was due yesterday, *see* Moses Ind. Prac. § 2(e), but no letter was filed. The Court hereby EXTENDS plaintiff's deadline to file a responding letter, *sua sponte*, until 5:00 p.m. this evening. If no response is received by that time, the Court will consider the defendants' letter-application unopposed and act accordingly.

Dated: New York, New York
September 23, 2021

SO ORDERED.

A handwritten signature in blue ink, appearing to read "Barbara Moses".

BARBARA MOSES
United States Magistrate Judge